IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6464 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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BADODARA GRUH SEVA SAHAKARI MANDALI LTD.

Versus

STATE OF GUJARAT

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Appearance:

MR AM PAREKH for the Petitioner.
Mr. L.R.Pujari, Assistant Government Pleder for the Respondents.

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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 18/10/2001

ORAL JUDGEMENT

Rule. Learned Assistant Government Pleader Mr. L.R.Pujari appears and waives service of Rule on behalf of the respondents.

2. Heard the learned counsel for the parties. The petitioner is a co-operative society which is running a fair price shop. Certain irregularities were found during the inspection by the personnel of the department. Thereupon, a show cause notice was issued for initiating proceedings for cancellation of the licence. The petitioner society submitted its explanation to the authority concerned and the authority, after hearing the parties recorded a finding that the petitioner society has committed certain irregularities though most of them were technical in nature. The respondent no. 3 District Supply Officer passed an order dated 28.2.2000 forfeiting wheat and rice found at the fair price shop and authorisation of the fair price shop as well as retail licence of the petitioner society was cancelled. Thereafter, the petitioner filed an appeal before the respondent no. 2 Collector who also dismissed the appeal by his order dated 24.8.2000. Thereafter, the petitioner filed a Revision Application before the State Government, Food, Civil Supplies and Rural Affairs Department, Gandhinagar. That Revision Application has also been dismissed by the State Government vide order dated 9.7.2001. Therefore, the petitioner has filed the present petition.

3. The contention of the learned counsel for the petitioner is that most of the irregularities found against the petitioner are technical in nature. There is no allegation against the petitioner society that the petitioner society was actuated by methods of hoarding and to real illegitimate profits and there is no finding against the petitioner society that the petitioner was indulging in such activities of hoarding or black-marketing in the past. Even there is no evidence to the effect that the contravention complained of is likely to create an artificial situation of shortage either in the town itself or in the entire market of the commodity in question. The petitioner is a co-operative society. There is no personal gain to the members of the society. In this regard, he also relied on the decision of this Court in the case of M/s. Govind Karsan and Company vs. State and another reported in 1983(1) GLR, 145. The learned counsel for the petitioner also submitted that the criminal prosecution is still pending and the petitioner has already suffered loss by confiscation of the property and the licence has already

been cancelled. But in view of the fact that the petitioner is a co-operative society having no personal interest, the application or the representation of the petitioner should be considered for a fresh licence for running of a fair price shop.

4. Considering the facts and circumstances of the case and on perusal of the relevant record, this petition is being disposed of finally with a direction to the parties concerned that the petitioner is at liberty to file a fresh representation or application for licence of the fair price shop to the authority concerned. If such application or representation is made to the authority concerned within a period of one month from today, the authority concerned will decide it sympathetically in accordance with law, within a period of two months thereafter, without being influenced by the findings recorded by the authorities below in the inquiry, appeal and Revision Application and the observations made by this Court. Rule is discharged accordingly with no order as to costs.

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